

**BEFORE THE**  
**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**

**DOCKET NO. 2010-91-C**

IN RE:

Virgin Mobile USA, L.P.	)	
Petition for Limited Designation as an	)	
Eligible Telecommunications Carrier	)	
in the State of South Carolina	)	<b>APPLICANT’S OBJECTION TO</b>
	)	<b>ADVOCATES FOR UNIVERSAL ACCESS’</b>
	)	<b>PETITION TO INTERVENE</b>
	)	

Virgin Mobile USA, L.P. (“Applicant”) hereby objects to the Petition to Intervene filed on April 12, 2010 by Sheila Stickel, on behalf of the Advocates for Universal Access (“AUA”) in this proceeding.

**FACTS**

1. Applicant initially filed this Petition for Limited Designation as an Eligible Telecommunications Carrier on or about March 3, 2010.
2. The Public Service Commission (the “Commission”) assigned Docket No. 2010-91-C.
3. On April 12, 2010, the AUA filed a Petition to Intervene in this proceeding.

**BASIS FOR OBJECTION**

4. AUA is not represented by an attorney admitted in South Carolina. S.C. Code of Regulations R. 103-805(B) requires that any entity must be represented by an attorney admitted to practice law in South Carolina. AUA’s petition is proffered by Sheila Stickel, who, upon information and belief, (and following a consultation of the South Carolina Lawyers Deskbook), is not a member of the South Carolina Bar.

5. AUA is not authorized to do business in South Carolina, and therefore cannot institute a legal proceeding in this state. S.C. Code Ann. § 33-15-102(a) provides that a foreign corporation “may not maintain a proceeding in any court in this State until it obtains a certificate of authority.” AUA failed to obtain a certificate of authority, is not authorized to do business in South Carolina, and therefore, cannot institute a legal proceeding in South Carolina. Likewise, it cannot take part in a Commission proceeding.

6. AUA fails to state a claim on which relief can be granted, and has not complied with the Commission’s Rules addressing intervention. S.C. Code of Regulations R. 103-825(A) requires that “[p]etitions shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought. Petitions shall cite by appropriate reference the statutory provision or other authority relied upon for relief.” See also S.C. Code of Regulations R. 103-825(3) (requiring a petitioner to set forth facts establishing nature of petitioner’s right or interest and the grounds of the intervention).

7. AUA cites no South Carolina statute or authority in support of its Petition or justifying its participation in this Docket; instead AUA exclusively cites Federal statutes not being considered by the Commission, and federal regulatory proceedings taking place in other venues. Similarly, AUA fails to articulate any particular interest in this Docket, but alleges a non-specific interest in proceedings taking place at the federal level and before the Federal Communications Commission (“FCC”).

8. Moreover, AUA neither offers any articulation of any specific interest in this case, nor discloses pertinent facts, such as its membership, funding or ownership, from which such an interest could be determined.

9. AUA lacks standing to take part in this Docket. In order to have associational

standing, AUA must demonstrate that its members have standing to sue. See Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc., 528 U.S. 167, 120 S.Ct. 693 (2000).

In order to demonstrate standing, an organization must show that its members will suffer particularized injury. Charleston Trident Home Builders, Inc. v. Town Council of Town of Summerville, 369 S.C. 498, 632 S.E.2d 864 (2006). “The three required elements to establish standing are: an injury in fact, a causal connection, and likelihood that a favorable decision would give relief.” Id.

10. AUA has not, and cannot, demonstrate an “injury in fact” in connection with this Docket. As referenced above, AUA has not identified its members or articulated any injury whatsoever that those members might suffer if the Application in this Docket is granted. For example, AUA has not alleged that its members are wireless customers of any carrier, either in South Carolina or elsewhere.

11. With respect to what AUA’s Petition may allege, (solely for purposes of argument), there is no connection between those allegations and the decision that the Commission will be called upon to make in this Docket.

12. Consequently, the Commission cannot provide “relief” for the “injury” alleged by AUA.

13. Should AUA engage South Carolina counsel and correct the other defects in its Petition, Virgin Mobile reserves the right to provide further objection as appropriate.

WHEREFORE, Applicant requests that the Commission deny Advocates for Universal Access' Petition to Intervene and grant any other relief as the Commission may deem just and proper.

Respectfully submitted,

VIRGIN MOBILE USA, L.P.

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Columbia, South Carolina  
April 27, 2010

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**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day, one (1) copy of **Applicant's Objection to Advocates for Universal Access' Petition to Intervene** by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

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s/Carol Roof \_\_\_\_\_

Carol Roof  
Paralegal

April 27, 2010  
Columbia, South Carolina